IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE J.CHELAMESWAR

and
THE HON'BLE MR JUSTICE GODA RAGHURAM

W.P.Nos.21452 of 2001, 22281 of 2001 and 2037 of 2002

WRIT PETITION NO : 21452 of 2001

Between:

1. Union of India, represented by Secretary, Govt. of India, Ministry of Labour, Employment & Rehabilitation, Deptt. of Labour & Employment, NEW DELHI-110 001.

2. The Welfare Commissioner, Government of India, Ministry of Labour, Labour Welfare Organisation, Kendriya Sadan, Sultan Bazar, Hyderabad-500 095 (A.P).

3. The Welfare Administrator, Labour Welfare Organisation, Govt. of India, Ministry of Labour, KALICHEDU-524 409. Nellore Dist. (A.P).

..... PETITIONERS

AND

Shri K. Hariprasad, S/o. Sri K.Eswar Reddy, Physical Education Teacher, MMLWO High School, KALICHEDU-524 409. Nellore Dist. (A.P)

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to

issue a writ order or direction particularly in the nature of certiorari declaring the judgment dated 20.3.2001 in O.A.No.235/2000 in the file of Hyderabad Bench of Central Administrative Tribunal as bad, illegal, void and quash the same.

Counsel for the Petitioners:MR.ANDAPALLI SANJEEV KUMAR

Counsel for the Respondent No.: MR.K.S.MURTHY

WRIT PETITION NO : 22281 of 2001

Between:

1. Union of India represented by Secretary, Govt. of India, Ministry of Labour, Employment & Rehabilitation, Deptt. of Labour & Employment NEW DELHI-110 001.

2. The Welfare Commissioner, Government of India, Ministry of Labour, Labour Welfare Organisation, Kendriya Sadan, Sultan Bazar, Hyderabad-500 095 (A.P).

3. The Welfare Administrator, Government of India, Ministry of Labour, Labour Welfare Organisation, KALICHEDU-524409. Nellore Dist. (A.P).

..... PETITIONERS

AND

1. M.Obul Reddy S/o. Obulu Reddy, B.Ed.Asst., High School, Kalichedu.

2. I. Sreedhar S/o. Gurappa Naidu, B.Ed.Asst., High School, Kalichedu.

3. T.Mallikarjun S/o. T.Rajaiah, Gr.I Hindi Pandit, High School, Talupur.

4. V. Venkata Ramanaiah S/o. Penchalaiah, B.Ed.Asst., High School, Kalichedu.

5. G.Venugopal Rao S/o. Subba Ramaiah, Secondary Grade Teacher, Elementary School, Talupur.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ order or direction particularly in the nature of certiorari declaring the judgment dt.13.7.2001 in O.A.No.262/2000 in the file of Hyderabad Bench of Central Administrative Tribunal as bad, illegal, void and quash the same.

Counsel for the Petitioners:MR.ANDAPALLI SANJEEV KUMAR

Counsel for the Respondents.: MR.G.VIDYASAGAR

WRIT PETITION NO : 2037 of 2002

Between:

1. Union of India represented by Secretary, Govt. of India, Ministry of Labour, Employment & Rehabilitation, Deptt. of Labour & Employment, NEW DELHI - 110 001.

2. The Welfare Commissioner, Government of India, Ministry of Labour, Labour Welfare Organisation, Kendriya Sadan, Sultan Bazar, Hyderabad-500 095 (A.P).

3. The Welfare Administrator, Labour Welfare Organisation, Govt. of India, Ministry of Labour, KALICHEDU-524 409. Nellore Dist. (A.P).

..... PETITIONERS

AND

Shri N. Jawaharlal Kanedy, S/o. Shri N.Ratnam, Grade II TeluguPandit, MMLWO High School, TALPUR-524409. Nellore Dist. (A.P)

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ order or direction particularly in the nature of certiorari declaring the judgment dated 03-09-2001 in O.A.No.1186/2001 in the file of Hyderabad Bench of Central Administrative Tribunal as bad, illegal, void and quash the same.

Counsel for the Petitioners:MR.ANDAPALLI SANJEEV KUMAR

Counsel for the Respondent.: MR.K.S.MURTHY

The Court made the following :

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ORAL ORDER: (per GR,J)

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The Union of India in the Ministry of Labour, the Welfare Commissioner and the Welfare Administrator of the same Ministry are before this Court aggrieved by the judgment of the Central Administrative Tribunal dated 20.3.2001 in O.A.No.235 of 2000, dated 13.7.2001 in O.A.No.262 of 2000, and dated 3.9.2001 in O.A.No.1186 of 2001 respectively. As the writ petitions involve identical legal aspects and

substantially similar fact situations, we have considered them together to be disposed of by this common order.

The respondents are working as teachers in the Mica Mines Labour welfare Organisation High Schools. The Indian Legislature enacted Act 22 of 1946 called "the Mica Mines Welfare Fund Act, 1946, *inter alia* for the purpose of promoting benefits to the labour employed in the Mica Mining industry, towards improvement of public health and sanitation, water supply and facilities for washing, provision and improvement of educational facilities, standards of living including housing and nutrition, for provision of transport to and from work and the like objects. For this purpose, it enabled the imposition of collection of cess in the nature of a duty of customs at a specified rate, on all mica in whatever state, that is exported from the territories to which the Act extends. The amounts so collected were to be deposited to the credit of a fund called the `Mica Mines Labour Welfare Fund'. In furtherance of the objects of the said legislation, on the admitted factual scenario, the Union of India engendered schools. Two schools were set up in 1949 and a High School in 1965. Recruitments of staff for these schools were made by the Government of India and payment of salaries was from out of the above mentioned welfare fund. It is also admitted that the teachers appointed to the schools were employees of the Union of India.

It would appear that in 1968, the Central Government decided that all appointees to these schools be paid according to the State scales insofar as teaching staff are concerned. Accordingly, from 1971 onwards State scales were being paid, but by the Central Government itself. In the year 1977, in exercise of the powers under proviso to Article 309 of the Constitution and in supercession of the Mica Mines Labour Welfare Fund (Clause III and IV) Recruitment Rules, 1967, the Mica Mines Labour Welfare Organisation (Group C and Group D Posts) Recruitment Rules, 1977 were issued and duly published in the Central Gazette.

The petitioners contend that as the mining activity in the Mica Mines was gradually tapering off and consequently, the need for the schools too and the revenues into the welfare fund was also dwindling, a sunset situation had arisen

whereupon at the initiative of the Central Government, the State Government released grant-in-aid to these schools. The petitioners, consequent on this development have construed that on account of the grant-in-aid by the State Government, the legal control of these schools also vested in State Government after divestiture from the Government of India, an assumption that has no basis in law. Be that as it may, from 1981 onwards, the State Government was extending financial grant to these schools to enable payment of salaries to the staff employed therein, including the teachers. In this fluid state of affairs, the petitioners were appointed as teachers to the schools during 1990 to 1993.

Earlier some of the teachers working in the schools under the administrative control of the Mica Mines Welfare Organisation, but the overall control of the Government of India, filed W.P.No.2520 of 1978 seeking implementation of the revised pay scales of Rs.290-560 on the ground that some of them were Matric trained, and the scale of pay of Rs.330-560 for those who were higher secondary trained, with effect from 1.1.1973 in accordance with the accepted recommendations of the Third Pay Commission and for a declaration that the decision of the Welfare Commissioner, Mica Mines Welfare Organisation dated 19.10.1977 declining such benefit to them, is illegal. This Court on a normaltive analysis of the fact situation, came to the conclusion that the teachers of these schools are identically placed and circumstanced and having functional and other relevant identity with teachers working in the Defence and Railways establishment schools and thus were entitled to the benefit of the revised pay scales recommended by Pay Commission as admissible to the teachers working with the Railways and the Defence. Accordingly by the judgment dated 18.6.1982, this Court issued a *mandamus* compelling the respondents (who are also the petitioners herein) to implement the revised scales of pay in favour of the petitioners herein in those writ petitions.

Catalysed by the potential benefits available under the judgment supra, the petitioners filed O.As before the Central Administrative Tribunal, Hyderabad Bench, seeking implementation of the Central Government pay scales (which are payable to teachers in the schools run by Railways and Defence) and to give them such benefit from the date of their respective appointments.

By several orders impugned herein, in the several O.As, the Tribunal agreed with the contention of the applicants-respondents herein with regard to the identity of service circumstances *vis-à-vis* teachers employed by the Railways and Defence establishments and declared that they are also entitled to a parity of pay. However, since they had approached the Tribunal after considerable delay from the date of their initial appointment, the Tribunal declared that the respondents herein were entitled for arrears of the revised scales of pay, only from the date of filing of the respective O.As.

Sri Sanjeev Kumar, learned Standing Counsel for the Central Government appearing for the petitioners would strenuously contend that on and from 1981 when grant was extended by the State Government to these schools, the respondents stood transferred to the regulatory and administrative control of the State and therefore the Union and its agents in the Labour and Welfare Ministries were divested of any responsibility or relationship of `master and servant' with these respondents. On account of the factum of grant being extended by the State Government, contends, Sri Sanjeev Kumar, the respondents had become the employees of the State and therefore they were entitled only to State scales of pay and could not in law claim extension of central pay scales.

The above contentions urged on behalf of the petitioners are founded on the assumption that the extension of a financial benefit by the State Government would automatically translate into divestiture of the control and regulation of Central educational institutions, to the State Government. Such an assumption while might be beneficial for the limited purposes of this *lis* would spell doom to the integrity and insularity of federal and State instrumentalities under our Federal Constitution. The property and control of a Government does not vest in another government or another entity on the mere extension of financial benefit to an establishment of the other Government. No instrument has been brought to the notice of this Court whereby and whereunder the ownership, control and regulation of these schools

has been transferred from the Central Government to the State Government. It is futile for the petitioners to contend that on account of the extension of a grant by the State Government, the schools stood transferred to the administrative control of the State Government and the respondents as teachers also stand transmuted from Central government to State Government employees. These contentions have no legal foundation and do not deserve commendation by this Court.

In view of the earlier judgment of this Court dated 18.6.1982 in WP No.2520 of 1978, in which teachers of the schools in which the respondents herein are also working have been declared entitled to parity of treatment as well as extension of the revised pay scales consequent on the Third Pay Commission, the respondents herein who are identically circumstanced on factual and legal principles, are equally entitled to the same benefits. This is what the Tribunal held and nothing has been pointed out to this Court factually or legally, warranting review of the orders of the Tribunal in the O.As above. The Tribunal had also recognized the belated approach of the respondents for relief and has accordingly tailored the relief, limiting the payment of arrears with effect from the date the O.As were filed.

Sri Sanjeev Kumar, learned counsel for the petitioners, would submit that in the year 2003, the educational institutions were transferred to the Zilla Parishad, Nellore and that the respondents herein have also, on being called upon, exercised their options for transfer to the Zilla Parishads and therefore they are even otherwise not entitled for the central pay scales on and from the exercise of such option. It is, however, brought to the notice of this Court that one of the respondents viz., the applicant in O.A.No.235 of 2000 had exercised the option with a caveat that it would be subject to the result of the writ petition i.e., W.P.NO.21452 of 2001. Whether in view of the factum of option having been subsequently exercised, the respondents are entitled to continued payment of central pay scales, subsequent to the date of such option is not an issue that falls for adjudication in this writ petition. We are only concerned with the fact situation prior to this event.

We discern no error in application of law. The writ petitions are dismissed, however,

with no order as to costs.

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knk 6.10.2004

To

1. The Secretary, Govt. of India, Ministry of Labour, Employment & Rehabilitation, Deptt. of Labour & Employment, NEW DELHI-110 001.

2. The Welfare Commissioner, Government of India, Ministry of Labour, Labour Welfare Organisation, Kendriya Sadan, Sultan Bazar, Hyderabad-500 095 (A.P).

3. The Welfare Administrator, Labour Welfare Organisation, Govt. of India, Ministry of Labour, KALICHEDU-524 409. Nellore Dist. (A.P).

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